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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/680,092	10/08/2003	Jui-Tuan Li	LIJU3003/EM	4439

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EXAMINER

RICHARDS, N DREW

ART UNIT	PAPER NUMBER
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2815

DATE MAILED: 01/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/680,092

Applicant(s)

LI, JUI-TUAN

Examiner

N. Drew Richards

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. Applicant's election without traverse of Group I drawn towards an encapsulated LED in the reply filed on 10/26/04 is acknowledged.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 6-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Komoto et al. (U.S. Patent No. 6,340,824 B1).

Komoto disclose an LED in figures 1-141 and on columns 1-74. With regard to claim 1, Komoto et al. disclose in figure 47 an LED comprising:

a frame, the frame having a first leg 110 and a second leg 120 (the frame in total is not labeled but constitutes legs 110 and 120),

a chip 990 bonded to the first leg 110,

an electrode wire connected between the chip 990 and the second leg 120 of the frame (the wire is not labeled but can easily be seen as the thick, solid black line connecting chip 990 to second leg 120 in figure 47),

and a packing material 140F/FL/142F encapsulating the chip 990 and the electrode wire,

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wherein the packing material comprises a first resin layer 140F, a second resin layer 142F, and a fluorescent layer FL sandwiched in between the first resin layer 140F and the second resin layer 142F.

With regard to claim 7, Komoto et al. further disclose the fluorescent layer FL being evenly sandwiched in between the first resin layer 140F and the second resin layer 142F as seen in figure 47.

With regard to claim 8, Komoto et al. disclose the fluorescent layer being formed of fluorescent materials having different colors including yellow, pink, red, green and blue. For example, on column 3 lines 22-27, Komoto et al. disclose the fluorescent materials including different colors of red, green and blue in order to produce white light.

With regard to claim 9, the fluorescent materials are considered to be fluorescent powder. Komoto et al. disclose on column 30 lines 26-40 (which refers to the device of figure 47) the fluorescent material with an appropriate medium being coated on the resin 142F by the fluorescent material being dispersed in a solvent, coated on the element (presumably coated on the resin 142F as shown in figure 47), and finally dried. One of ordinary skill in the art would recognize that the fluorescent material applied in this way would be a powder as when it is dispersed in the solvent the fluorescent material would comprise small particles, i.e. particulate matter or powder. It is noted that powder is defined by Websters (Collegiate Dictionary, Tenth Edition) as matter in a finely divided state : particulate matter.

With regard to claim 10, the fluorescent materials are considered to be fluorescent chips. Chips are defined by Websters (Collegiate Dictionary, Tenth Edition)

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as a small piece cut, struck, or flaked off. This definition relies upon the process of forming the chip (i.e. cut, struck or flaked off) but the only definite structure required by the definition is a small piece. The fluorescent materials are considered to be small particles as discusses with regard to claim 9 above, and thus are considered to read on being "chips."

In the rejection of claims 9 and 10 above, Websters dictionary was merely relied upon as evidence of the ordinary definition of powder and chip in showing that Komoto et al. anticipates these claims. The intent is not to use Websters as a secondary reference in proving that the claims are obvious over the prior art under 35 U.S.C. 103.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Vriens et al. (U.S. Patent No. 5813753), Matsubara et al. (U.S. Patent No. 6642547 B2), Stokes et al. (US 2004/0124429 A1), Harada (U.S. Patent No. 6809342 B2), Tan et al. (U.S. Patent No. 6806658 B2), Takahashi et al. (U.S. Patent No. 6791116 B2), Srivastava et al. (U.S. Patent No. 6621211 B1), Justel et al. (U.S. Patent No. 6084250), Chen (U.S. Patent No. 5952681), Ohara et al. (U.S. Patent No. 5818174), O'Connor et al. (U.S. Patent No. 5208462), Kano et al. (U.S. Patent No. 3875456).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to N. Drew Richards whose telephone number is (571) 272-1736. The examiner can normally be reached on Monday-Friday 9:00-5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Thomas can be reached on (571) 272-1664. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'N. Drew Richards', is written over the printed name.

N. Drew Richards
AU 2815